EXHIBIT 8
DATE 1-21-11
HB 68

The 2011 Legislators' Guide to Medical Cannabis

A Comprehensive Guide to Understanding Medical Cannabis in the State of Montana

House Bill 68-- AN ACT REVISING THE MEDICAL MARIJUANA ACT

This document is provided to the members of the House Human Services Committee. Excerpts from *The Legislators' Guide to Medical Cannabis* providing recommendations and rationale pertaining to HB68 are provided herein.

Section 1 (16)-Local Jurisdictions

We support limiting a local jurisdictions' ability to ban or restrict medical cannabis through zoning as this is a direct contradiction to the voter initiative.

Section 3 – (1) (c) Chronic Pain –Requiring Two Physicians' Recommendations

The two physician requirement puts an additional and unfair financial burden on patients. The issue of out of control clinics has been addressed by the Medical Board of Examiners. The shortage of physicians is addressed **in *The Legislators' Guide to Medical Cannabis.*** *(Guide, p.8)*

Issue: Medical Personnel Authorized to Make Recommendations

Currently the Montana Medical Marijuana Act states that only licensed physicians may recommend medical cannabis to a patient. There are currently 625 Advance Practice Registered Nurses (APRNs) able to prescribe medicine but denied the ability to recommend medical cannabis to a patient. In addition, there are approximately 20,000 other nursing professionals that could be involved in the care of patients, including those utilizing medical cannabis as an alternative treatment. It is proposed that APRNs be added to physicians and doctors of osteopathy who are able to recommend medical cannabis to patients. Education is critical for any medical professional recommending medical cannabis or any other pharmaceutical. By including Registered Nurses and other paramedical professionals in continuing education programs, these individuals can assist in patient assessment and patient follow up which will help to improve overall standard of care. It is more likely that these paramedical professionals, moreover than the physicians themselves, are better suited to communicate with caregivers and the providers of medical cannabis and to spend the time necessary with patients to determine an ongoing course of treatment.

Recommendations:

Legislative

1. Authorize APRNs to write medical cannabis recommendations.
2. Authorize Registered or Licensed Practical Nurses to complete the preliminary assessment of patients before referring the patient to an APRN or physician for a final recommendation.

Administrative Rule

1. Require all physicians take Continuing Education courses on **new medical alternatives** they may wish to recommend or prescribe by January 1, 2012.
2. Require all APRNs take Continuing Education courses on **new medical alternatives** they may wish to recommend or prescribe by January 1, 2012.

Section 3 (21)--Montana Residency

This issue is addressed in *The Legislators' Guide to Medical Cannabis* *(Guide, p.5)*

Issue: The ability of an out-of-state resident to obtain a medical cannabis recommendation and subsequent license.

Currently there are 103 licensed Montana medical cannabis patients with out of state residency. A number of patients come to Montana for treatment of different illnesses, including cancer. A Stage 4 brain cancer patient was recommended for a Montana medical cannabis card by her physician in Billings but was rejected by DPHHS because her permanent residence is in Wyoming, but comes to Montana for treatment. Her inability to take other pharmaceutical treatments to ease her symptoms during chemotherapy added to her condition and was not in the interest of the patient. While she has now been issued her license, any patient being treated by medical professionals in Montana should have access to an appropriate standard of care and course of treatment as recommended by their physician. It is reasonable to ensure that patients coming to Montana for medical treatment can be provided the opportunity to receive quality, safe, and appropriate medicine.

There has been a question about "snow birds" that live in Montana part time. If a patient has been diagnosed with a qualifying condition, they should be afforded the opportunity to obtain medicinal product for the time they reside in Montana.

Recommendation: Continue to permit out of state residents to obtain Montana medical cannabis recommendations and licenses.

Section 3 (1), Section (23), Section (21)--Cardholder limitations

No patient should be denied access to any medicine recommended by a physician.

Qualifying conditions should be determined by medical fact based on documented research, ideally determined by a panel of qualified medical professionals not restricted without basis.
This issue is addressed in *The Legislators' Guide to Medical Cannabis* *(Guide, p.21)*

Issue: Add PTSD as a qualifying condition

With the recent action by the Veterans' Administration to permit returning veterans to utilize medical cannabis and President Obama's specific mention of PTSD as a qualifying condition, we propose the Legislature consider adding PTSD to the list of qualifying medical conditions.

Section 3—Definitions
Section 8-- Quantity Limitations

Clarification is also a legislative goal of the medical cannabis community.

The Legislators' Guide to Medical Cannabis provides recommendations to address the most significant issues regarding the terminology used by the members of the medical cannabis industry.

Proposed Terminology *(Guide, p. 24)*

This section will provide an explanation of the different functions that currently operate in this new agricultural industry. It is understood that each operating entity may require different regulation and oversight.

Term: Caregiver vs. Provider

This term can replace "Caregiver", and is meant to represent anyone involved in the manufacture, sale, distribution of medical cannabis, must be 18 years of age or older.

Recommendations:

Legislative

1. Change the word "Caregiver" to the term "Provider" which is better suited to the definition found in 50-46-102.

Term: Marijuana vs. Cannabis

One of the biggest areas of confusions by the public is in the lack of understanding regarding the differentiation between medical cannabis and marijuana. As reference, marijuana or "black market street product" is neither tested by licensed testing facilities, nor grown under appropriate agricultural protocols. Marijuana is sold illegally by individuals to other individuals and is often imported from out of state. The issue of illegal marijuana concerns everyone especially the legitimate medical cannabis community. The word *marijuana* is a Mexican slang term which became popular in the US in the late 1930's, during a series of media and government programs which were referred to as the "Reefer Madness Movement". It refers specifically to the part of cannabis which Mexican soldiers used to smoke. Medical Cannabis is now grown, in many instances, under pharmaceutical conditions, is tested for medicinal and by-product content and is then properly labeled for the patient.

Recommendations:

Legislative

1. In all legislative revisions of the current Initiative, the term *medical cannabis* should be used rather than *marijuana*.

Term: Cannabis Store Front

A retail outlet where patient(s) licensed to an individual caregiver may either walk in or by appointment purchase their medicinal product on-site. There is a significant need for store-fronts for those patients that wish to evaluate a wider variety of product available for their condition and do not mind being seen going into a location. Some cities have regulated a CAP

or limited number of store fronts based on city population, with the flexibility of reviewing that count as either population or patient count in the area changes. It is recommended to avoid the term *Dispensary* as that term is widely recognized as an "open pharmacy" of sorts permitting **any** patient to obtain medicine from **any** licensed outlet. The Summer Work Group sessions arrived at the consensus that it was necessary to retain the established concept that patients should only receive their medicinal product from their designated caregiver.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Store Front" in all future legislation

Term: Cannabis Home Delivery

Many patients wish to remain out of the public eye for both professional and personal reasons. Some patients are 100% home bound and require the personal attention of their caregiver. The vast majority of cannabis sold in Montana is through small caregivers serving less than 20 patients with the majority involving home delivery. These are small caregivers who cannot afford to open a store front but have invested significant funds into their grow facilities.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Home Delivery" in all future legislation

Term: Cannabis Grow Facility

A commercial grow facility is the physical location where the medical cannabis is grown and may be a different location from that of a store front, or the main place of business of the caregiver. The caregiver may have one or more grow locations. Through inspection, it should be insured that the facility has proper electrical, odor mitigation, plant count to cards, fire safety and security.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Grow Facility" in all future legislation

Term: Cannabis Medibles

Any product made from or including medical cannabis for the purposes of ingestion. Many patients are unable or do not desire to use medical cannabis by smoking and use edible products such as cookies or muffins. On average, edible products have between 30 - 90mg of cannabis content. These estimates can be used by patients and law enforcement to qualify legal limits of acquisition.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Medibles" in all future legislation

Term: Cannabis Sundries

Lip balms, salves, lotions made from cannabis all have therapeutic value to the patient. With the testing currently available these ancillary products can have appropriate labeling showing the cannabis value contained. Patients and law enforcement can qualify legal limits of acquisition using these labels.

The potential benefit for using medical grade cannabis in sundry products such as tinctures, salves, lotions and liniments is vast. Cannabis can be used in a simple formula meaning only the cannabis plant is being exercised for its medicinal value, or it can be added into a more complex formula meaning cannabis is drawn on as part of a synergistic blend of plants used to create any of the products above mentioned. Both have their individual benefits. As for testing of products the former will come out as a stronger product in numbers only because more cannabis per volume is being used. The latter however also has many adventitious uses. From age old time herbalists have created formulas to better represent the outright potential of individual plants. In effect the sum is greater than that of its individual parts. These products are so vitally important for those patients who for health reasons or otherwise choose not to take their medicine in the familiar form via smoking cannabis.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Sundries" in all future legislation

Term: Cannabis Courier

Montana is a sparsely populated state with many patients residing in somewhat remote areas where there is no caregiver in reasonable proximity for direct delivery. Regulatory or company policy prohibits medical cannabis from being delivered to a patient via the US Post Office, Federal Express or UPS. There are private in-state bonded courier services that currently deliver other medicine to pharmacies, hospitals and nursing homes that could also be used to deliver medicinal product to patients. Similar guidelines could be developed with appropriate documentation for employees of a caregiver to transport medicinal product on behalf of that caregiver.

Recommendations:

Legislative

1. Apply the terminology "Cannabis Courier" in all future legislation

Term: Medical Cannabis Exchange

As evidenced by states that have a limited number of growers participating, the supply of medicinal product is can be severely limited with significant risk of crop failure. Crop failure can also impact small growers. If a crop fails, as happens with other agricultural products and the caregivers are not permitted to legally acquire product from other licensed caregivers, patients

have no source for product. With 100% transparency in the exchange of product, no black market activity would be involved and law enforcement would easily be able to track the movement of medicinal product. In addition, when a patient first receives his/her license, there is a delay time before the caregiver may begin the grow process. This is problematic since it can take up to six months before plants can be harvested for that specific patient. The Medical Cannabis Exchange would be fully regulated as has been recommended throughout this guide. By permitting caregiver to caregiver exchanges, patients can be provided medicinal product immediately upon receipt of their license. A Medical Cannabis Broker is an individual licensed by the State who may purchase excess medicine from one grower and distribute it to other caregiver/providers.

Recommendations:

Legislative

1. Apply the terminology "Medical Cannabis Broker" in all future legislation
2. Apply the terminology "Medical Cannabis Exchange" in all future legislation

---

Issue: What is a plant? *(Guide, p.21)*

Currently the State considers all rooted plants in the overall plant count. The background material provided shows that only the cannabis plant in the harvest or bloom cycle has significant potency or benefit. Similar to Hawaii and Colorado, Montana should adopt a separate plant count for mature and immature plants. The grower determines when a plant has "turned to flower" in an inside grow facility. The six (6) plant limit should be based on flowering, not vegetative, plants. Plants in the flower stage are readily distinguishable from plants in the vegetative state. This also solves the problem for growers when clones die and vegetative plants that may be male or hermaphrodite (both male and female) and are subsequently destroyed in mid-grow cycle. This also permits a grower to maintain "mother plants" for future cloning to insure strain availability consistency.

Edible and other sundry products should be tested, produced in appropriate commercial facilities and labeled with the specific ingredient content similar to nutritional labeling. This will solve the issue of weight being the factor for these products, and control of dosing can be easily measured and quantified. A cookie, for example, may have only 40 mg of THC yet have a total weight of 1 ounce. Cannabis content should be considered for its weight not the gross weight of the product. With proper testing and labeling, regulatory enforcement becomes more effective and accurate.

Recommendation:

Legislative

1. Establish different criteria for plant growth stages and medical cannabis by-products based on actual science that make tracking and governing more efficient for law enforcement and the proposed regulatory board to administer. The science is now available to identify the THC content in baked goods, other edibles, and sundry products clearly delineating the qualitative and quantitative medicinal content.

NOTE: Additionally, *the Guide* offers updated definitions that clarify terms already in use in the current law.

Term: Medical Cannabis - The actual bud or flower of the plant. Bud has different stages, usable and unusable.

> **Term:** *Usable Medical Cannabis* - The product has been properly cured and is ready for sale.
> **Term:** *Unusable Medical Cannabis* - The product is in the curing stage and is not ready for sale.

Term: Allowable Medical Cannabis - It is recommended that allowable cannabis amounts be designated differently for patients and caregivers.

> **Term:** *Patient Allowable Cannabis* - 1 ounce per week from their caregiver unless documented by the caregiver with supporting rationale from the recommending physician. Examples would be terminally ill patients or far remote patients where delivery is problematic. A patient may maintain his/her own six bloom plants and retain the yield in full.

> **Term:** *Caregiver Allowable Cannabis* - It is a caregiver's responsibility to have an ongoing supply of medicinal product for their patients. The limit should be six flowering plants per patient with no restrictions on usable product. Transparent tracking and reporting by caregivers eliminate the possibility of any black market activity either in bound or out bound and will insure an uninterrupted supply of legal, quality product for the patient.

Plant Terminology (*Guide, p. 33*)

Recommended plant terminology in all future legislation:

When discussing the actual cannabis plants, their definition should be based solely on scientific fact. Cannabis plants only have significant medical benefit once they are in the flowering stage. Vegetative plants have inconsequential medicinal impact. The recommendation is to qualify separately vegetative and bloom plants. In most instances for indoor grow facilities; the grower determines at what point the plants move from a vegetative state to a bloom state. This change significantly reduces inspection time for law enforcement.

> **Term:** *Bloom Plant* - A bloom plant is a plant that has begun to flower or has begun the flowering stage.

> **Term:** *Vegetative Plant* - Clones or any rooted plant not in the bloom cycle. Many varieties require lengthy vegetative schedules and may include "mothers" or plants not going to bloom but are used for cloning.

> **Term:** *Seed* - There is no medicinal efficacy in seeds and therefore does not require specific regulation.

> **Term:** *Trim* - When a plant is harvested, there is waste plant material that is either discarded or used for low level production of other by-products. The medicinal content of trim is significantly less than bud or flower material. There is minimal medicinal efficacy in trim and therefore does not require specific regulation or control.

Section 16-- Create Licensing Authority

This is also a legislative goal of the medical cannabis community.
This issue is addressed in *The Legislators' Guide to Medical Cannabis*

Issue: Licensing Board (*Guide, p.10)*

The consensus of this summer's Work Group was that a separate licensing and regulatory board should be created to guide caregivers. As this is an agricultural product, the involvement of the Montana Department of Agriculture is critical to insure safe medicinal product. The Department has already been helpful regarding the hemp mite which has destroyed entire crops in the State.

An initial recommendation for a licensing board was made at the last Interim Subcommittee meeting held in August, 2010. This recommendation was carefully designed to provide for some industry self regulation with appropriate oversight. The recommendation includes a significant portion of the Work Group concerns and guidance. The recommendation from the summer has been updated and details of this recommended licensing board are contained in the full version of *The Legislators' Guide to Medical Cannabis, A Comprehensive Guide to Medical Cannabis in the State of Montana.*

Recommendations:

Legislative

1. Establish a new licensing board to regulate registered caregivers in the State.
2. Oversight should be under the guidance of the Departments of Agriculture and Revenue.

Administrative

1. To adopt the proposed licensing board.

NOTE: A document summarizing a proposed Licensing Board is provided on Pg 19 of the *Guide.* Included are recommendations on structure, authority and limitations, license fee structure equaling a $ 1,657,090 year one budget. The amount does not include the currently budgeted $500,000 for DPHHS. It is anticipated with a separate board for caregiver/providers and patients remaining with DPHHS, the work load on DPHHS will be greatly reduced. With the proposed regulatory structure, this funding should be sufficient for appropriate regulation and oversight.

Section 18 (2)—Five (5) Patient Limit

The five (5) patient limit simply increases the cost of oversight and enforcement. Any potential economy of scale in production is severely hampered. With appropriate regulation and oversight, there is no need to put an arbitrary limit on the number of patients an individual may serve. The rural nature of Montana suggests exceptions to this the rule. This would result in a significant increase in the number of people growing in the State if those caregivers with more than 5 patients but without a store front could no longer provide for their patients. Many patients have no desire to broadcast their medical needs by going into a store front. At least 1,000 small business owners would be put out of business or financially ruined if providers were limited to 5 patients. This is based on current estimates of caregivers with more than 5 patients where no store front is available or financially feasible.